

Mitchell v. Arizona Public Service Co., 91-ERA-9 (Sec'y June 28, 1993)

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DATE: June 28, 1993

CASE NO. 91-ERA-9

IN THE MATTER OF

LINDA E. MITCHELL,

COMPLAINANT,

v.

ARIZONA PUBLIC SERVICE COMPANY,

and

ARIZONA NUCLEAR POWER PROJECT,

RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

FINAL ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING CASE

This case, which is before me for review, arises under Section 210 of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. § 5851 (1988). On July 2, 1992, the Administrative Law Judge issued his Recommended Decision and Order (R.D. and O.). On July 15, 1992, the Director of the Office of Administrative Appeals issued a briefing schedule on that recommended decision, and the parties thereafter filed briefs. On January 19, 1993, the parties submitted a Joint Motion to Approve Settlement and for Dismissal with Prejudice together with Complainant's General Release.

I have carefully reviewed the terms of the parties' agreement and the Complainant's release. I note that certain language in the release could be construed as a waiver by Complainant of causes of action which may arise in the future. See, e.g., General Release at ¶ 6. Because a waiver of Complainant's rights based on future employer actions would be

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contrary to public policy, I interpret these provisions as limited to a waiver of the right in the future to bring claims or causes of action arising out of any set of facts occurring before

the date of the agreement. See *Polizzi v. Gibbs and Hill*, Case No. 87-ERA-38, Sec. Order Rejecting in Part and Approving in Part Settlement Submitted by the Parties and Dismissing Case, July 18, 1989, slip op. at 9, and cases cited therein.

The parties jointly request that I maintain the Settlement Agreement confidential and under seal. Joint Motion at 3. I note that the Freedom of Information Act, 5 U.S.C. § 552 (1982), requires Federal agencies to disclose requested records unless the records are exempt from disclosure under that Act.

As so construed, I find the terms of the agreement to be fair, adequate, and reasonable, and therefore approve the Settlement Agreement and General Release. Accordingly, this case is DISMISSED WITH PREJUDICE. See Settlement Agreement at 3.

SO ORDERED.

ROBERT B. REICH
Secretary of Labor

Washington, D.C.